



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2019-0108]**

**Agency Information Collection Activities; Renewal and Revision of an Approved Information Collection: Commercial Driver's License Drug and Alcohol Clearinghouse**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget for its review and approval and invites public comment. The FMCSA requests to renew an ICR titled, "Commercial Driver's License Drug and Alcohol Clearinghouse." The Agency's final rule, published December 5, 2016, titled "Commercial Driver's License Drug and Alcohol Clearinghouse" (81 FR 87686) (Clearinghouse) established the regulatory requirements for the Clearinghouse. The compliance date of the final rule is January 6, 2020. Since the original ICR was approved, no data has yet been collected. With the upcoming compliance date, this ICR is needed to ensure that querying and reporting requirements are met to diminish the problem of Commercial Driver's License (CDL) and Commercial Learner's Permit (CLP) holders who test positive for drugs or alcohol and then continue to perform safety sensitive functions, including driving a commercial motor vehicle (CMV), without participating in the required return-to-duty process.

**DATES:** We must receive your comments on or before **[Insert date 60 days after the date of publication of this notice in the Federal Register]**.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA-2019-0108 using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 1-202-493-2251.
- Mail: Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC, 20590-0001 between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the “help” section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Juan Moya, Compliance Division, Federal Motor Carrier Safety Administration, Department of Transportation, West Building 6th Floor, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-366-4844; e-mail [clearinghouse@dot.gov](mailto:clearinghouse@dot.gov)

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Agency regulations at 49 CFR part 382 apply to persons and employers of such persons who operate CMVs in commerce in the United States and who are subject to the CDL requirements in 49 CFR part 383 or the equivalent CDL requirements for Canadian and Mexican drivers (49 CFR 382.103(a)). Part 382 requires that employers conduct pre-employment drug testing, post-accident testing, random drug and alcohol testing, and

reasonable suspicion testing, as well as return-to-duty (RTD) testing and follow-up testing for those drivers who test positive or otherwise violate DOT drug and alcohol program requirements. Motor carrier employers are prohibited from allowing an employee to perform safety-sensitive functions, which include operating a CMV, if the employee tests positive on a DOT drug or alcohol test, refuses to take a required test, or otherwise violates the DOT or FMCSA drug and alcohol testing regulations.

Section 32402 of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) requires that the Secretary of Transportation establish, operate, and maintain a national clearinghouse for records relating to alcohol and controlled substances testing of CMV operators to improve compliance with the Department of Transportation's (DOT) alcohol and controlled substances testing program and to enhance the safety of our roadways by reducing crashes and injuries involving the misuse of alcohol or use of controlled substances by operators of CMVs. As noted above, FMCSA published a final rule on December 5, 2016, with an effective date of January 4, 2017, and a compliance date of January 6, 2020 to implement the requirements of the Clearinghouse. No information is currently being collected.

The Clearinghouse will function as a repository for records relating to the positive test results and test refusals of CMV operators and violations by such operators of prohibitions set forth in part 382, subpart B, of title 49, Code of Federal Regulations. An employer will utilize the Clearinghouse to determine whether current and prospective employees have incurred a drug or alcohol violation that would prohibit them from performing safety-sensitive functions, including operating a CMV.

The Clearinghouse will provide FMCSA and employers the necessary tools to identify drivers who are prohibited from operating a CMV and ensure that such drivers receive the required evaluation and treatment before resuming safety-sensitive functions. Specifically, information maintained in the Clearinghouse will ensure that drivers who commit a drug or alcohol violation while working for one employer and attempt to find work with another employer, can no longer conceal their drug and alcohol violations merely by moving on to the next job or the next state. Drug and alcohol violation records maintained in the Clearinghouse will follow the driver regardless of how many times he or she changes employers, seeks employment or applies for a CDL in a different State.

The information in the Clearinghouse will be used by FMCSA and its State partners for enforcement purposes:

- Ensure employers are meeting their pre-employment investigation and reporting requirements.
- Place drivers out of service if drivers are found to be operating a CMV without completing the RTD process.
- Ensure Medical Review Officers (MROs) and Substance Abuse Professionals (SAPs) meet their reporting requirements

Only authorized users, including employers and their service agents, and Federal Enforcement personnel and State Driver Licensing Agencies (SDLAs) will be able to register and access the Clearinghouse for designated purposes. State enforcement personnel will receive the driver's eligibility status to operate a CMV, based on Clearinghouse information, when they check Query Central or NLETS for driver information. FMCSA will share a driver's drug and alcohol violation information with

the National Transportation Safety Board when it is investigating a crash involving that driver.

Drivers will be able to access their own information, but not information of other drivers. The Clearinghouse will meet all relevant federal security standards and FMCSA will continuously monitor compliance with applicable security regulations.

**Title:** Commercial Driver's License Drug and Alcohol Clearinghouse

**OMB Control Number:** 2126-0057.

**Type of Request:** Renewal and revision of a currently approved information collection.

**Respondents:** Motor carriers (employers), drivers, medical review officers, substance abuse professionals, consortia/third-party administrators (C/TPAs), and State Driver's Licensing Agencies.

**Estimated Number of Respondents:** 11,038,986

**Estimated Time per Response:** Varies; 10 to 20 minutes

**Expiration Date:** January 31, 2020.

**Frequency of Response:** On occasion

A user's role will determine the frequency of the response in the Clearinghouse.

- Employers, or C/TPAs acting on behalf of an employer: at a minimum, employers are required to query the Clearinghouse for each driver they currently employ at least once a year. Employers must query the Clearinghouse for all prospective employees, as needed. In addition, employers report to the Clearinghouse alcohol confirmation tests with a concentration of 0.04 or higher, refusal to test (alcohol), refusal to test (drug) that is not determined by an MRO, actual knowledge, negative RTD testing, and completion of follow-up testing. Employer reporting

must be completed by the close of the third business day following the date they obtained the information on a driver.

- MROs: verified positive, adulterated or substituted drug test result and refusals to tests (drug) must be entered to the Clearinghouse on occasion, but no later than two business days after making a determination or verification.
- SAPs: must enter the initial assessment date and the date the driver successfully complied with RTD requirements. SAPs are required to enter this information on occasion by the close of business day following the date of the initial assessment or completion of the RTD process.
- SDLAs may query the Clearinghouse prior to specified licensing transactions to determine if there are existing drug or alcohol violations.
- Drivers must provide their specific consent to pre-employment queries electronically through the Clearinghouse.

**Estimated Total Annual Burden:** 1,864,251

**Estimated Total Number Respondents:** 11,038,986

**PUBLIC COMMENTS INVITED:** You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: June 13, 2019.

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Kenneth Riddle,  
Director for Office of Registration and  
Safety Information.

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